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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,988	02/09/2004	J. Daniel Raulerson	MED-0014	1295

33941 7590 05/23/2006

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EXAMINER

MCCORKLE, MELISSA A

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/775,988	Applicant(s) RAULERSON ET AL.	
	Examiner Melissa A. McCorkle	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-46 is/are pending in the application.
- 4a) Of the above claim(s) 17-24, 35-39, 45 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-34 and 41-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04262004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 17-24, 35-39 & 45-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/5/06.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 25-33 & 41-44 rejected under 35 U.S.C. 102(b) as being anticipated by Lavielle (4,514,882). Lavielle discloses a device that is capable of being used as a catheter clamp, the clamp comprising a body having a first portion having a first top face sized to retain at least one catheter lumen thereon, a second portion having a second top face sized to retain at least one catheter lumen thereon, a hinge connecting the first portion and the second portion, such that the first portion is disposable to face toward the second portion when the first portion is pivoted about the hinge toward the second portion and such that the at least one catheter lumen is retainable between the first and second top faces; and a locking member for releasably locking a free end portion of the first portion to the second portion; wherein the second top face further comprises a recessed area disposed between the hinge and the locking member, wherein the

recessed area is sized to accept at least one catheter, wherein the recessed area is sized to accept at least two catheters, further comprising at least one rib extending from the recessed areas.

4. Lavielle discloses the device of claim 25 as stated above, wherein the first portion further comprises a recessed area disposed between the hinge and the free end portion, wherein the recessed area is sized to accept at least one catheter, wherein the recessed area is sized to accept at least two catheters, further comprising at least one rib extending from the recessed area, wherein the clamp is constructed of polypropylene, wherein the clamp is of unitary construction.

5. Lavielle discloses the device of claim 25 as stated above, wherein the locking member for releasably connecting the free end of the first portion to the second portion comprises the first portion having a slot, and the locking member of the second portion is a vertically projecting tab, wherein the vertically projecting tab is positioned to be releasably inserted into the slot for locking thereto; wherein a surface of the vertically projecting tab faces away from the hinge and includes a ledge that latches to an edge of the slot, wherein a top portion of the surface of the tab facing away from the hinge is beveled above the locking latch; wherein a top of the vertically projecting tab is rounded; wherein the vertically projecting tab is adapted to be biased toward the hinge.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lavielle (4,514,882) in view of Turturro et al (6,331,165). Lavielle discloses applicant's basic inventive concept of a clamp substantially as claimed with the exception of the second portion comprising a gripping ring disposed distal from the hinge. Turturro shows this feature (52 of Turturro patent) to be old in the clamps art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the handle of Lavielle by second portion comprise a gripping ring for the purpose of easier handling of the clamp by using fingers to clasp and unclasp the device.


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Olson (3,571,861) discloses a bag closure means; Swan (4,534,089) discloses a fastening device for flexible sheets; Russell (4,434,963) discloses a slide clamp including elevation stabilizer; Vcelka (4,364,383) discloses an I.V. flashback indication; Millet (4,192,304) discloses an intravenous catheter assembly with fluid flow restriction capability; Miller (3,461,876) discloses a tubing clamp.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa A. McCorkle whose telephone number is (571) 272-2773. The examiner can normally be reached on Monday - Friday, 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Melissa A McCorkle
Examiner
Art Unit 3763